

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 424**

**Introduced by Assembly Member Richman**

February 14, 2003

---

---

~~An act to repeal Sections 33110, 33111, 33112, 33113, 33114, 33115, 33116, 33117, 33117.5, 33117.7, 33118, 33119, 33120, 33121, 33122, 33123, 33125, 33126.1, 33126.2, 33126.5, 33127, 33128, 33128.5, 33129, 33131, 33132, 33133, 35160.5, 35161, 35162, 35163, 35164, 35165, 35166, 35167, 35168, 35170, 35172, 35175, 35177, 35178, 35178.4, 35250, 35251, 35252, 35253, 35254, 35255, 35256.1, and 35258 of, to repeal Article 1 (commencing with Section 33100) of, Article 3 (commencing with Section 33140) of, and Article 5 (commencing with Section 33190) of, Chapter 2 of Part 20 of, to repeal Article 1 (commencing with Section 35100) of, Article, 1.5 (commencing with Section 35110) of, Article 2 (commencing with Section 35120) of, Article 3 (commencing with section 35140) of, Article 4.5 (commencing with Section 35179) of, Article 4.7 (commencing with Section 35181) of, Article 5 (commencing with Section 35190) of, Article 6 (commencing with Section 35200) of, Article 7 (commencing with Section 35230) of, Article 9 (commencing with Section 35270.5) of, Article 10 (commencing with Section 35290) of, Article 10.3 (commencing with Section 35294) of, Article 10.4 (commencing with Section 35294.10) of, Article 10.41 (commencing with Section 35294.20) of, Article 10.5 (commencing with Section 35295) of, Article 12 (commencing with Section 35310) of, Article 13 (commencing with Section 35330) of, Article 13.5 (commencing with Section 35335) of, Article 15 (commencing with Section 35350) of, and~~

~~Article 16 (commencing with Section 35400) of, Chapter 2 of Part 21 of, to repeal Chapter 1 (commencing with Section 1) of, Chapter 2 (commencing with Section 200) of, Chapter 4 (commencing with Section 400) of, Chapter 5 (commencing with Section 420) of, and Chapter 6 (commencing with Section 430) of, Part 1 of, to repeal Chapter 3 (commencing with Section 33300) of, and Chapter 4 (commencing with Section 33500) of, Part 20 of, to repeal Chapter 1 (commencing with Section 35000) of Part 21 of, to repeal Part 2 (commencing with Section 1000) of, Part 3 (commencing with Section 4000) of, Part 4 (commencing with Section 5000) of, Part 5 (commencing with Section 7000) of, Part 6 (commencing with Section 8006) of, Part 7 (commencing with Section 10000) of, Part 8. 5 (commencing with Section 13000) of, Part 8.7 (commencing with Section 13040) of, Part 10 (commencing with Section 15100) of, Part 10.5 (commencing with Section 17210) of, Part 10.7 (commencing with Section 17910) of, Part 10.8 (commencing with Section 17920) of, Part 11 (commencing with Section 18010) of, Part 12 (commencing with Section 21100) of, Part 19 (commencing with Section 32001) of, Part 19.5 (commencing with Section 32500) of, Part 22 (commencing with Section 37060) of, Part 23 (commencing with Section 38000) of, Part 23 (commencing with Section 39672) of, Part 23.5 (commencing with Section 39800) of, Part 25 (commencing with Section 44000) of, Part 26 (commencing with Section 46000) of, Part 26.8 (commencing with Section 47600) of, Part 26.95 (commencing with Section 47750) of, Part 27 (commencing with Section 48000) of, Part 28 (commencing with Section 51000) of, Part 29 (commencing with Section 54000) of, Part 31 (commencing with Section 58400) of, Part 32 (commencing with Section 59000) of, Part 33 (commencing with Section 60000) of, Part 34 (commencing with Section 62000) of, Part 35 (commencing with Section 63000) of, Part 36 (commencing with Section 64000) of, Part 37 (commencing with Section 64100) of, and Part 38 (commencing with Section 64200) of, the Education Code, relating to education. An act to amend Section 45272 of, and to add Section 45277.5 to, the Education Code, relating to school employees.~~

## LEGISLATIVE COUNSEL'S DIGEST

AB 424, as amended, Richman. ~~Education~~ *Classified school employees.*



*Existing law requires all vacancies in the classified service of a school district that has adopted the merit system to be filled from applicants on eligibility lists that are made up from promotional examinations or by appointments made by means of transfer, demotion, reinstatement, or reemployment, as specified. Existing law requires that if a vacancy is filled from applicants on an eligibility list that the appointment be made from the eligible candidates having the first 3 ranks on the list who are ready and willing to accept the position.*

*Existing law authorizes in a school district that has adopted the merit system an appointment to be made from other than the first 3 ranks when the ability to speak, read, or write a language in addition to English, or possession of a driver's license is a requirement of the position to be filled, but in that case existing law requires the appointment to be made from among the highest 3 ranks of applicants on the list who meet the special requirements and are ready and willing to accept the position.*

*This bill would, in a school district with a pupil population over 400,000, authorize an appointment for a school-based position to be made from any rank on eligibility list, but would require consideration of certain factors. If specialized licenses, certifications, knowledge, or ability that cannot reasonably be acquired during the probationary period or a specific gender is required for successful job performance of a position, the bill would allow an appointment to be made, in a school district with a pupil population over 400,000, from among the highest 3 ranks of applicants on the list who meet the special requirements and are ready and willing to accept the position.*

~~The Education Code contains provisions of law that govern, among other things, childcare and development services and elementary and secondary education and that authorize the Superintendent of Public Instruction, the State Department of Education, the State Board of Education, and the Commission on Teacher Credentialing and various educational entities, including school districts, county offices of education, special education local plan areas, and charter schools to take action and to perform prescribed duties.~~

~~This bill would, effective July 1, 2007, repeal the parts of the Education Code governing childcare and development services and specified provisions governing elementary and secondary education and, in that regard, would make legislative findings, declarations, and statements of legislative intent.~~

~~The bill would establish a 15-member commission, to be appointed as specified, to revise those repealed parts of the Education Code~~

~~governing childcare and development services and elementary and secondary education. The bill would require the commission on or before January 1, 2005, to submit to the Legislature, the Governor, and the State Board of Education a recommended revised version of those repealed parts of the Education Code governing child care and development services and elementary and secondary education. The bill would require the Legislative Counsel, Legislative Analyst, State Department of Education, and the Department of Finance to assist the commission in the performance of its duties and to fund the cost of providing assistance to the commission from existing resources.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. (a) The Legislature finds and declares the~~  
2     SECTION 1. Section 45272 of the Education Code is  
3     amended to read:  
4     45272. (a) All vacancies in the classified service shall be  
5     filled pursuant to this article and the rules of the commission, from  
6     applicants on eligibility lists which, wherever practicable, as  
7     determined by the commission, shall be made up from  
8     promotional examinations, or appointments may be made by  
9     means of transfer, demotion, reinstatement, and reemployment in  
10    accordance with the rules of the commission. All applicants for  
11    promotional examinations shall have the required amount of  
12    service in classes designated by the commission or meet the  
13    minimum qualifications of education, training, experience, and  
14    length of service, which shall be determined by the commission to  
15    be appropriate for the class for which they have applied. Any  
16    promotional applicant who has served the required amount of time  
17    in a designated class or who meets the minimum qualifications for  
18    admission to a promotional examination shall be admitted to the  
19    examination. The commission shall place applicants on the  
20    eligibility lists in the order of their relative merit as determined by  
21    competitive examinations. The final scores of candidates shall be  
22    rounded to the nearest whole percent for all eligibles. All eligibles  
23    with the same percentage score will be considered as having the  
24    same rank. Appointments shall be made from the eligibles having



1 the first three ranks on the list who are ready and willing to accept  
2 the position.

3 (b) *Notwithstanding subdivision (a), in a school district with a*  
4 *pupil population over 400,000, an appointment for a school-based*  
5 *position may be made from any rank on the eligibility list.*  
6 *However, in making appointments pursuant to this subdivision, at*  
7 *least three eligible candidates from the list, if available, shall be*  
8 *considered and appointing authorities shall consider job-related*  
9 *background and training that are related to successful job*  
10 *performance, placement on the eligibility lists, and site seniority,*  
11 *prior to making a job offer.*

12 (c) (1) Upon the request of a majority of the members of the  
13 governing board of a district, the commission may exempt one or  
14 more executive secretarial positions from the requirements of this  
15 section. Exemptions authorized under this subdivision shall be  
16 limited to executive secretarial positions reporting directly to  
17 members of the governing board, the district superintendent, or not  
18 more than four principal deputies of the district superintendent, or  
19 all of these positions.

20 ~~Any~~

21 (2) *Any* person employed in an exempt executive secretarial  
22 position shall continue to be afforded all of the rights, benefits, and  
23 burdens of any other classified employee serving in the regular  
24 service of the district, except he or she shall not attain permanent  
25 status in an executive secretarial position. Positions of executive  
26 secretary shall be filled from an unranked list of eligible  
27 employees who have been found to be qualified for the positions  
28 as specified by the district superintendent and determined by the  
29 personnel commission. Any person whose services in an executive  
30 secretarial position are discontinued for a cause other than a cause  
31 for disciplinary action specified in this code or in a rule of the  
32 commission shall have the right to return to a position in a  
33 classification he or she previously occupied or, if that  
34 classification no longer exists, in a similar classification, as  
35 determined by the commission.

36 ~~Nothing contained in this~~

37 (c) ~~This section shall~~ *does not* authorize the selection of eligible  
38 candidates in circumvention of the affirmative action programs of  
39 any school district.

1     SEC. 2.   Section 45277.5 is added to the Education Code, to  
2     read:

3     45277.5.   Notwithstanding Section 45277, in a school district  
4     with a pupil population of over 400,000 the following shall apply:

5     (a) An appointment may be made from other than the first three  
6     ranks of eligible applicants on the eligibility list if one or more of  
7     the following are required for successful job performance of a  
8     position to be filled:

9     (1) The ability to speak, read, or write a language in addition  
10    to English.

11    (2) Possession of a valid driver's license.

12    (3) Specialized licenses, certifications, knowledge, or ability  
13    that cannot reasonably be acquired during the probationary period.

14    (4) A specific gender ~~when~~ if it is a bonafide *occupational*  
15    qualification.

16    (b) The recruitment bulletin announcing the examination shall  
17    indicate the special requirements that may be necessary for filling  
18    one or more of the positions in the classification. If a position is to  
19    be filled using the authority of this section, the appointment shall  
20    be made from among the highest three ranks of eligible candidates  
21    on the appropriate eligibility list who meet the special  
22    requirements of the position and who are ready and willing to  
23    accept the position.

24    (c) If there are insufficient applicants who meet the special  
25    requirements, an employee who meets the special requirements  
26    may receive provisional appointments which may accumulate to  
27    a total of 90 working days. Successive provisional appointments  
28    of 90 working days or less each may be made in the absence of an  
29    appropriate eligibility list containing applicants who meet the  
30    special requirements if the personnel commission finds that the  
31    requirements of subdivisions (a) and (b) of Section 45288 have  
32    been met. These appointments may continue for the period of the  
33    provisional appointment, but may not be additionally extended if  
34    certification can later be made from an appropriate eligibility list.



1  
2  
3  
4  
5  
6  
7

**All matter omitted in this version of the  
bill appears in the bill as introduced in the  
Assembly February 14, 2003 (JR 11)**

O

